

FILED

10/01/2021

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

CLERK OF THE
DISTRICT COURT
TERRY WALPIN

Case Number: OP 21-0494

2021 SEP 30 P 5:49

FILED

BY _____
DEPUTY

47

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY

PLANNED PARENTHOOD OF
MONTANA and JOEY BANKS, M.D., on
behalf of themselves and their patients,

Plaintiffs,

vs.

STATE OF MONTANA, by and through
Austin Knudsen, in his official capacity as
Attorney General,

Defendant.

Cause No.: DV-21-00999

Judge Michael G. Moses

TEMPORARY RESTRAINING ORDER

This Petition came before the Court on the application of Plaintiffs for a
Temporary Restraining Order, sent to the Court on 9/30/21 at 3:11 p.m. prohibiting
Defendant, its agents, employees, appointees, or successors from enforcing,
threatening to enforce, or otherwise applying the challenged provisions of HB 136, HB
171, and HB 140, pending final judgment. The State of Montana, through counsel,
vehemently objects to the issuance of a Temporary Restraining Order as evidenced in
their email sent on 9/30/21 at 3:30 p.m. to my Judicial Assistant. Judge Todd recused

1 himself from this matter on 9/30/21 at 12:57 p.m. This Court was not assigned to the
2 matter until 1:11 p.m. on 9/30/21. The Court cannot possibly make a decision as to the
3 Plaintiff's Motion for a Preliminary Injunction without adequate time to review the
4 entirety of the Record, including all of the arguments, briefs, and transcripts
5 previously submitted. This is a case of extreme constitutional importance. At the
6 moment, the case of *Armstrong v. State*, 1999 MT 261 is critically important to all
7 parties.
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10 Without adequate time to completely review the entirety of the record, this
11 Court cannot enter an order on the preliminary injunction. However, in accordance
12 with the MCA §§ 27-19-314 *et seq.* this Court can issue a Temporary Restraining Order
13 (TRO) to maintain the status quo until a full review of the record can be completed.
14 The Court has reviewed the motion for a TRO and Defendant's emailed response. For
15 purposes of this TRO, the laws at issue may inflict constitutional injuries to the people
16 of the State of Montana, to include plaintiffs. Any constitutional injury would be
17 irreparable. The TRO is issued with the understanding that Plaintiffs provided a
18 motion for a TRO at 3:11 p.m. Defendants acknowledged the receipt of the TRO as
19 evidenced in their 3:30 p.m. email containing a response to Plaintiff's TRO motion.
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23 The status quo can only be maintained if a Temporary Restraining Order is
24 issued prior to October 1, 2021. Therefore, this Court enters its Temporary Restraining
25 Order until it has had time to review the record.

1 IT IS HEREBY ORDERED as follows:

2 The October 1, 2021 Effective Date for HB 136, HB 171, and HB 140 is hereby
3 stayed and enjoined until this Court issues a ruling on Plaintiffs' Application for a
4 Preliminary Injunction or for 10 days, whichever occurs first. Defendant, its agents,
5 employees, appointees, or successors are hereby prohibited from enforcing,
6 threatening to enforce, or otherwise applying the challenged provisions of HB 136, HB
7 171, and HB 140 until further order of this Court. The Temporary Restraining Order is
8 effective immediately and will remain in effect for 10 days or until this Court issues an
9 order as to the pending Motion for a Preliminary Injunction, whichever occurs first.
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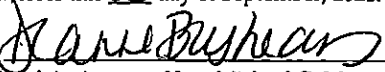
14 DATED this 30th day of September 2021 at 5:48 p.m.

15 
16 _____
17 DISTRICT JUDGE

18 cc: Raphael Graybill (rgraybill@silverstatelaw.net), David Dewhirst
19 (David.Dewhirst@mt.gov), Patrick Risken (PRisken@mt.gov), Brent Mead
20 (Brent.Mead2@mt.gov), Katie Smithgall (Kathleen.Smithgall@mt.gov), Kimberly
21 Parker (kimberly.parker@wilmerhale.com), Hana Bajramovic
(hana.bajramovic@ppfa.org), Alice Clapman (alice.clapman@ppfa.org), Gene Jarussi
(gene@lawmontana.com), Nicole Rabner (Nicole.Rabner@wilmerhale.com)

22 CERTIFICATE OF SERVICE

23 This is to certify that the foregoing was duly served by email
24 upon the parties or their attorneys of record at their last known e-mail
25 addresses this 30th day of September, 2021.

24 BY 
25 Judicial Assistant to Hon. Michael G. Moses